

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

OPERATING ENGINEERS LOCAL NO. 101	)	
PENSION FUND, et al.,	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 05-0522-CV-W-FJG
	)	
MID CONTINENT MECHANICAL, INC.,	)	
	)	
Defendant.	)	

**ENTRY OF DEFAULT AND  
ORDER OF DEFAULT JUDGMENT**

This matter comes before the Court on Plaintiffs' Verified Application for Entry of Default and Motion for Default Judgment Pursuant to Fed. R. Civ. P. 55(b)(2) and for Certification of Final Judgment Pursuant to Fed R. Civ. P. 54(b) (Doc. No. 4). Defendant has failed to enter an appearance, plead or otherwise respond to defend this action. On August 1, 2005, the Court directed defendant to show cause in writing on or before August 15, 2005, why default judgment should not be entered against it pursuant to Rule 55 of the Federal Rules of Civil Procedure. See Doc. No. 5. To-date, defendant has not responded to the Court's Order.

Therefore, plaintiffs' motion for default judgment (Doc. No. 4) is **GRANTED**, and the Court enters default against Defendant Mid Continent Mechanical, Inc.

THE COURT FINDS that Defendant is currently liable to the Plaintiffs in the known amount of Nine Thousand, Five Hundred and Sixty-nine and 72/100 Dollars (\$9,569.72).

THE COURT FURTHER FINDS that there is no just reason for delay in the entry of final judgment upon the aforesaid amount known to be due and owing to Plaintiffs from Defendant;

THE COURT FURTHER FINDS that Plaintiffs are entitled to conduct an audit of Defendant's books and records for the purpose of determining any additional amounts as may be due and owing to Plaintiffs from Defendant;

**NOW THEREFORE THE COURT ORDERS** that Defendant Mid Continent Mechanical, Inc. shall permit a qualified, certified public accountant, selected by the Plaintiffs, to audit Defendant's books and records at Defendant's expense in order to determine the precise amount due and owing the Plaintiffs pursuant to the terms of the collective bargaining agreement; and

**THE COURT FURTHER ORDERS** that Plaintiffs shall apply to this Court for an award of damages against the Defendant for all delinquent contributions, as determined by the audit, plus liquidated damages, interest thereon, audit costs, and Plaintiffs' cost and reasonable attorney's fees incurred for the arrangement of the audit and for the preparation of the application for the award of additional damages. Along with said Application for an Award of Damages, Plaintiffs shall submit exhibits and affidavits in support thereof.

**THE COURT FURTHER ORDERS** that judgment be, and it hereby is, entered against Defendant Mid Continent Mechanical, Inc. in the amount of Nine Thousand, Five Hundred and Sixty-nine and 72/100 Dollars (\$9,569.72).

**THE COURT FURTHER ORDERS** that the judgment hereby entered be certified as final, pursuant to Fed. R. Civ. P. 54(b). This Order leaves for further adjudication only Plaintiffs' claim for any additional amounts as may be revealed by the aforesaid audit of Defendant conducted subsequent to this Order.

**IT IS SO ORDERED.**

/s/Fernando J. Gaitan, Jr.  
Fernando J. Gaitan, Jr.  
United States District Judge

Dated: \_September 13, 2005\_